

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DAVID L. GIST, SR., UNITED STATES,
and PARTIE 2314,

Plaintiffs,

-v.-

5:09-CV-01361
(NPM/GHL)

UNITED STATES, *et al.*,

Defendants.

APPEARANCES:

OF COUNSEL:

DAVID L. GIST, SR.
Plaintiff, *pro se*

Neal P. McCurn, Senior District Judge

ORDER

This *pro se* medical malpractice action was referred to Honorable George H. Lowe, Magistrate Judge, for a report-recommendation pursuant to 28 U.S.C. § 636(b).

On February 3, 2010, Judge Lowe issued a report-recommendation, recommending, among other things, that “United States” and “Partie 2314” be dismissed as plaintiffs; that plaintiff, David L. Gist may file an amended complaint within thirty days; and that upon the filing of an amended complaint, it be referred

to Judge Lowe for further review. See Dkt. No. 12. Judge Lowe further granted plaintiff's motion to proceed *in forma pauperis*, but denied without prejudice plaintiff's motion to appoint counsel. Plaintiff timely filed objections to the report-recommendation.

When objections to the report-recommendation of a magistrate judge are lodged, the court makes a "de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). After such a review, the court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." *Id.*

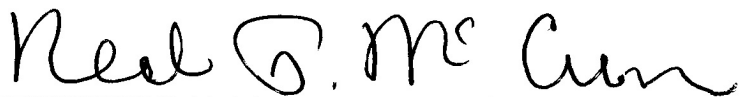
Having conducted a de novo review of the record, and having considered the issues raised in the plaintiff's objections, the court accepts and adopts the report-recommendation for the reasons stated therein.

It appearing plaintiff has now filed an amended complaint, it is

ORDERED that the amended complaint be referred to Judge Lowe for further review.

IT IS SO ORDERED.

DATED: March 2, 2010
Syracuse, New York

A handwritten signature in black ink, reading "Neal P. McCurn". The signature is written in a cursive, flowing style. The first name "Neal" is written in a larger, more prominent script, followed by "P." and "McCurn". The signature is positioned above a horizontal line.

Neal P. McCurn
Senior U.S. District Judge